

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA J. HAMAMA, et al.,

Petitioners,

vs.

Case No. 17-cv-11910

HON. MARK A. GOLDSMITH

REBECCA ADDUCCI, et al.,

Respondents.

ORDER ON PRIVILEGE AS TO JUNE 26, 2018 BROADCAST EMAIL

On September 21, 2018, the Court ordered the parties to meet and confer regarding how the Court should address the coercion issues raised in Petitioners' statement filed on September 4, 2018 (Dkt. 383). The parties could not agree on how to proceed and filed separate statements on the matter (Dkts. 413, 414). One sticking point is a June 26, 2018 broadcast email sent on behalf of David W. Jennings, Acting Assistant Director for Field Operations, with the concurrence of Tae D. Johnson, Assistant Director for Custody Management. Petitioners would like to ensure that the email properly informs ICE deportation officers of their obligations under June 20, 2018 Order on coercion issues (Dkt. 316). Respondents argue that the email is protected under the attorney-client privilege.

The parties agreed to submit the broadcast email to the Court for in camera review to determine whether the email comports with the Court's order. The Court has reviewed the email and finds that it is not protected by the attorney-client privilege, except as to the initial phrase in the first sentence in the second paragraph, up to ". . . you should not engage" The Court views the email as embodying a direction from Mr. Jennings regarding conduct, which direction

is not itself privileged. The one phrase identified above does state that some or all of the direction follows certain advice, so in that limited sense the phrase is protectible and may be redacted.

Respondents must submit the redacted broadcast email to Petitioners for their review by 10 a.m. tomorrow. The parties must then confer on whether the broadcast email properly conveys the contents of the Court's June 20, 2018 order and whether it should be resent to ICE deportation officers. If the parties cannot agree on the language of the broadcast email or whether it should be resent to ICE deportation officers, they must file a joint statement on or before November 8, 2018 detailing their respective positions.

SO ORDERED.

Dated: October 31, 2018
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on October 31, 2018.

s/Karri Sandusky
Case Manager